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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 699th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 22 May 2001, at 10.05 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4)

Second periodic report of Denmark (CRC/C/70/Add.6; HRI/CORE/1/Add.58; CRC/C/Q/DEN/2; written replies of the Government of Denmark to the questions in the list of issues (document without a symbol distributed in the meeting room in English only))

1. At the invitation of the Chairperson, the members of the delegation of Denmark took places at the Committee table.

2. Mr. SKIBSTED (Denmark) said that his Government attached great importance to the work of the Committee and was always ready to support proposals to enhance the efficiency of human rights treaty monitoring bodies. One such proposal was the long-overdue increase of the membership of the Committee on the Rights of the Child to 18. Denmark viewed its dialogue with the Committee as an ongoing process that reflected the need for the Convention to be interpreted according to changing circumstances. Denmark's periodic reports and the Committee's observations were disseminated widely at the national level, first and foremost to the Parliament, but also, for instance by means of the Internet, to civil society and non-governmental organizations (NGOs).

3. Regrettably, the small administrations of the autonomous Governments of Greenland and the Faeroe Islands had been unable to participate in the delegation. Nevertheless, his delegation was large enough to include representatives from a range of ministries, in order to reflect Denmark's view that child rights should not be entrusted to a single government department.

4. By means of a number of coordinating institutions, central Government worked in close cooperation with civil society and regional authorities to implement the provisions of the Convention. For example, in October 1999 a Committee of Ministers had been established by the Government to investigate the problem posed by maladjusted youth in Danish society. Its subsequent recommendations for preventive efforts had led to the setting-up of a mobile unit to provide guidance to municipalities, police and others, to collect information and to participate in public debate.

5. The Danish Youth Parliament had been established in 1999 and met every second year. It was composed of representatives from schools throughout Denmark and Greenland and its procedures mirrored that of the senior parliament, including committees, ministers and the discussion of bills. At its most recent meeting in February 2001, the debate had covered a wide range of issues from genetic cloning to increased punishment for rape, and from improved conditions for hens to the Missile Defence System. The Youth Parliament gave young people the opportunity to have first-hand experience of the democratic process.

6. He drew attention to a recent survey by UNICEF which seemed to confirm that Danish children were among the happiest in the world. Some 80 per cent of the children surveyed had been aware of the existence of the Convention. Nevertheless, half of those asked believed that

children of a different ethnic background were treated unfairly. He hoped that was more a reflection of Danish children's awareness of the problem than of the extent of discrimination in the country.

7. The CHAIRPERSON invited members of the Committee to ask specific questions concerning general measures of implementation and the definition of the child.

8. Ms. SARDENBERG welcomed the fact that, from the composition of its delegation, the Danish Government appeared to share the Committee's view that the implementation of child rights was an intersectoral process. She also welcomed the dissemination of periodic reports over the Internet, which had been specifically recommended by the Committee during consideration of Denmark's initial report. In general terms, the second periodic report showed the willingness of the Danish Government to take into account the Committee's concluding observations concerning Denmark's initial report.

9. However, as a comparatively rich country, with a high standard of living and a pluralistic society, Denmark had a responsibility to set high standards in its reports to the Committee. In spite of that, its second report did not conform to the Committee's guidelines. She failed to understand why it addressed each article separately, as opposed to the theme-based approach preferred by the Committee. The report also focused primarily on legislation, while providing sparse information on the practical aspects of protecting child rights. Though the Danish Government's programmes seemed very efficient, she would appreciate more evidence that they were inspired by the Convention as well as by merely national concerns.

10. She would like to learn more about the situation in Greenland and the Faeroe Islands, where a declining population, coupled with higher illiteracy and mortality rates than elsewhere in Denmark, were cause for concern.

11. She asked whether a specific study had been carried out concerning the impact of an ageing population on children's development. With regard to immigration, had the Government considered ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?

12. It was not clear whether Denmark intended to withdraw its reservation to article 40 (2) (b) (v) of the Convention. Whereas changes to procedure were referred to in the report, it was not clear when or if a bill would be introduced. She inquired whether the Government intended to carry out a general review of legislation with a view to identifying specific areas that needed to be brought into conformity with the Convention. Lastly, how were statistical indicators used to determine national policies?

13. Ms. TIGERSTEDT-TÄHTELÄ asked what mechanisms were in place to ensure that the views of the administrations of Greenland and the Faeroe Islands were heard when Denmark presented reports to the human rights treaty monitoring bodies. The information given in Denmark's second report concerning those regions was insufficient.

14. She would be interested to learn how the Government viewed the difference between national and ethnic minorities, and whether the concepts were defined in Danish legislation.

Noting that Germans were listed as a national minority, she asked whether Greenlanders within Denmark were given the same status. Further details of any special benefits for ethnic or national minorities would also be welcome.

15. The report stated that, in budgetary terms, priority was given to the most vulnerable children in society. She asked what groups in particular were given special attention and whether the Government also targeted the means to help them.

16. Ms. EL GUINDI requested further information concerning the relationship between the different bodies dealing with child rights mentioned in the report, such as the Inter-Ministerial Committee on Children, the Trans-Ministerial Youth Committee, the National Council for Children and the Centre for Human Rights. How were their efforts coordinated and to what extent was civil society involved? She asked for further details of the individual rights of ethnic minority groups, particularly with regard to civil rights, education and health care.

17. Mr. CITARELLA said that the Youth Parliament was a praiseworthy initiative that would familiarize young people with the machinery of democracy.

18. It was unclear to him whether the information provided in the report covered the Faeroe Islands and Greenland as well as Denmark. The core document (HRI/CORE/1/Add.58) revealed considerable discrepancies in terms of, for example, the infant mortality rate, which in 1994 had stood at 27.3 per 1,000 live births for boys and 20.8 for girls in Greenland, compared with 8.1 and 6.0 respectively in Denmark. Were there programmes to ensure that the Faeroe Islands and Greenland had access to the same facilities and to what extent did they enjoy autonomy in respect of decisions affecting children's rights?

19. With regard to the status of the Convention in domestic law, he asked whether the courts could set aside Danish legislation in individual cases if it was found to conflict with the Convention.

20. Ms. KARP, noting that institutions in the area of children's rights did not address individual complaints, asked whether there was any independent complaints body with authority to demand information and remedial measures.

21. She urged the Danish authorities to play a more proactive role in ensuring that legislation systematically reflected the principles set forth in the Convention. A nationwide debate on the subject would generate awareness of existing rights, especially among vulnerable groups such as minorities and children with disabilities. Was there a body that examined guidelines for professionals and other persons with authority over children to ensure that Convention provisions such as the right of participation were adequately covered? As responsibility for implementation of the Convention lay primarily with the local authorities, they would also stand to benefit from such guidelines. According to information received by the Committee, some local authorities examined the criminal record of persons recruited to work with children, for example in kindergartens, and others did not.

22. She noted that in some legal proceedings in which the Convention had been invoked, the court's final decision had been based on different principles from those of the Convention. Legislation that reflected the provisions of the Convention would encourage the judiciary to interpret issues in the light of the States party's obligations.

23. Ms. OUEDRAOGO asked to what extent the wide distribution of the initial and second periodic reports had given rise to an exchange of views, particularly among young people, on children's rights in Denmark.

24. She inquired about arrangements for coordinating the work of the various government institutions engaged in promoting children's rights. Did their mandates cover different areas or were they interrelated?

25. The Youth Parliament was an excellent idea. It would be interesting to hear whether the results of its proceedings would be taken into account by the authorities.

26. The State party recognized that inequalities persisted among children from different backgrounds, for instance from disadvantaged or immigrant families, and had stated that high priority was being given to action to eliminate those discrepancies. She understood, however, from the material received by the Committee that such measures had so far proved inadequate.

27. The CHAIRPERSON said he had been struck by the statement in the State party's written replies that a conflict between a treaty provision and a provision in a law subsequently enacted should be resolved by applying the new provision in a manner that respected the treaty provision, even if the tenor of the new provision was clearly at variance with the treaty. He wondered how such legislation could have been enacted after Denmark's ratification of the Convention. Was there no screening system to ensure that bills submitted to Parliament were compatible with the country's international obligations?

28. The written replies also referred to a Supreme Court decision to the effect that the holding of two juveniles in pre-trial solitary confinement in a prison where adult inmates were also incarcerated could not be viewed as a violation of article 37 of the Convention. He personally disagreed with that decision and wondered what position the Government had taken. If it had agreed, he wished to know on what grounds. If not, would it consider amending the legislation to ensure that juveniles could not be held in solitary confinement in pre-trial detention?

The meeting was suspended at 11 a.m. and resumed at 11.15 a.m.

29. Ms. TOFTEGAARD NIELSEN (Denmark) said that the report had been divided into sections based on articles of the Convention for the reader's benefit and that material already covered in the initial report had been omitted. She assured the Committee that Denmark's third periodic report would be based on clusters of issues and comply with the reporting guidelines.

30. The authorities in the Faeroe Islands and Greenland were self-governing in many areas of relevance to the Convention. They had been urged to provide information regarding compliance but could not be compelled to do so. A more vigorous effort would be made to obtain information for the next report, especially in response to any specific questions that the Committee might wish to raise.

31. The second periodic report had been distributed to 50 organizations and to Parliament. Any other interested party could obtain the report on request from the Ministry of Justice, which had also published it on its Web site. It had given rise to debate in the press and in schools that had requested copies.

32. Denmark was not contemplating the establishment of complaint boards whose mandate was specifically related to the Convention. The authorities preferred to give a broad mandate to a small number of bodies. For example, there was no separate ombudsman for children, but young people were free to file complaints with the Ombudsman responsible for public administration in general.

33. Mr. FAERKEL (Denmark) said that the complex relationship between domestic and international law was not expressly regulated in the Constitution. As legislation was screened in the light of Denmark's international obligations, no new enactment should be incompatible with the Convention but mistakes sometimes occurred. Moreover, international law was constantly evolving and was not always easy to interpret. At all events, the fact that very few decisions on the issue of incompatibility had been taken in Danish courts indicated that the problem seldom arose.

34. The Government was aware of the fact that it might be useful, at least for educational purposes, to incorporate human rights instruments into domestic law, as had been done in the case of the European Convention on Human Rights. A committee to look into the matter, of which he was a member, had been set up by the Ministry of Justice. He was not at liberty to reveal its findings to date but the Convention was one of the instruments being considered. There was no guarantee, moreover, that the Government would act on its recommendations. However, it was to be hoped that the committee would clarify the relationship between Danish law and international law. A summary in English of the report would be forwarded to all the United Nations human rights treaty bodies.

35. There was no definition of a national or ethnic minority in Danish law and no minority enjoyed special benefits. The German minority in Denmark had been identified for the purposes of the Framework Convention for the Protection of National Minorities. He had taken part in the *travaux préparatoires* for the Convention and could report that a deliberate decision had been taken to omit any definition in view of the impossibility of securing a consensus.

36. The main purpose of the Youth Parliament was not to generate new ideas but to involve young people in the democratic process. The debate on the 60 bills tabled might, of course, have influenced politicians or government agencies dealing with the issues addressed.

37. Mr. KRUSE MIKKELSEN (Denmark), referring to Denmark's reservation to article 40 of the Convention, said that under the existing jury system the adjudication of a defendant's guilt in the High Court could not be reviewed by the Supreme Court. In criminal proceedings, the Supreme Court could rule only on the sentence, points of law and any procedural errors committed during the High Court trial. It could not review the assessment of the evidence. The Standing Committee on Procedural Law had submitted a report in 1998 on the treatment of jury cases. A majority of its members had proposed that in future such cases should be heard at first instance by district courts, composed of two judges and six jurors and deciding jointly on the defendant's guilt and the sentence to be imposed. Appeals would lie to the High Court which would adjudicate on both verdict and sentence. Another committee had made proposals regarding the future structure of the court system, including a reduction in the number of district courts, many of which currently had only one judge and thus would be unable to handle a jury trial. Even when the new legislation on jury cases was enacted, there would be some cases of minor importance in which permission from a board of appeal would be required for any appeal to the High Court. Denmark was therefore maintaining its reservation to article 40 but seeking to limit its scope.

38. Cases of sexual abuse in kindergartens and day-care institutions were taken very seriously. New rules on access to records on sexual offences had come into force on 1 April 2001. Convictions were kept on file for longer periods than in the case of other offences: for 20 years after release from prison and, for more serious crimes, until the offender reached the age of 80. It was not mandatory for public or private employers to check the criminal record of an applicant but they were free to do so. A review of references from earlier employers and a rigorous interview were considered to be equally important. There was a system for reviewing the lawfulness of decisions taken by local authorities but not their appropriateness in the light of the Convention.

39. With regard to the Supreme Court decision on the scope of article 37, the Court had indeed stated that solitary confinement of juveniles and lack of segregation from adults might not in all cases be contrary to the Convention. However, it had also decided that solitary confinement in the case before it had been unlawful since such a measure should be ordered only in exceptional circumstances.

40. Ms. LETH SVENDSEN (Denmark) said that the various institutions that dealt with children's issues and related policies had different purposes and mandates. The National Council for Children was an expert body, whose main role was to act as adviser to the authorities. The Inter-Ministerial Committee on Children coordinated policy when various Government ministries were involved. The Committee had recently focused on sexual abuse of children, and as a result of its work the Government was about to issue guidelines on best practices to help municipalities combat that problem. The role of NGOs, which had traditionally been quite important in Denmark, had been strengthened further through the Social Services Act which obliged municipalities to work with NGOs when implementing social policy.

41. A research project consisting of a longitudinal study of children in Denmark was currently being conducted. According to its findings to date, the children of older parents were not disadvantaged. While the Government had no specific body for the evaluation and monitoring of social policy, the longitudinal study, which included research into the situation of

children in ethnic minorities and in single-parent homes, was part of a broad range of measures aimed at assessing the situation of children. The Ministry of Social Affairs had initiated a large-scale integration programme that would focus on preventive measures for the protection of children at risk. It would also produce an evaluation of the effectiveness of current legislation. The Ministry was developing indicators on the quality of day-care services in Denmark. In any evaluation of the situation of children, the provisions of the Convention would be given due consideration.

42. The Danish Parliament had adopted a wide range of legislative amendments in early 2000 to increase the funding for and effectiveness of measures supporting children in vulnerable groups. Additional resources had thus been provided to municipalities, for example to make possible training in interdisciplinary methods for social workers and others engaged in providing services to children.

43. Ms. CLAUSEN (Denmark) said that, since the Committee's adoption of its concluding observations on the initial report, the Aliens Act had been amended to bring Danish law fully into line with the Convention. Under the amended law, children of school age who applied for asylum would participate in separately arranged tuition as long as they were in Denmark, regardless of whether their requests were pending or had been rejected. Similarly, such children were entitled to the same health care provided to Danish children. The Government recognized that asylum-seeking children had special needs and required additional medical attention, including annual check-ups.

44. Ms. LEHMANN (Denmark) said that the Convention was used in schools as an educational tool. The main objectives of primary and lower secondary education were consistent with the principles in the Convention. The subject of human rights, including the rights of the child, was included in the main educational areas at the primary and secondary levels, including history and political studies. The guidelines for the teaching of bilingual children set out the principles of mutual respect and non-discrimination and were largely based on the provisions of articles 29 and 30 of the Convention. It was not in the Danish tradition to prescribe educational values at the central level; even the Danish Constitution was not compulsory in school curricula. Yet it was mandatory for teacher training curricula at the primary and lower secondary school levels to include the subject of human rights.

45. Immigrant children were considered a vulnerable group, in particular insofar as they lacked Danish language skills. The Government had therefore given a very high priority to supporting integration efforts. In the past five years, a wide range of projects had been implemented. In 2000 the Government had launched a plan of action for the improved integration of children, young people and adults, which was currently being implemented. As a result of experience gained in the 1990s, the Danish school system had learned much about the integration of bilingual students. The Government had recently published and disseminated pamphlets on rights and obligations in schools and on language stimulation for pre-school children and second-language education for non-Danish speakers. Integration was and should be seen as a shared responsibility of both the schools and the parents and students, whether immigrant or Danish. The Ministry of Education had established a task force to deal with children with special needs, including bilingual students.

46. Mr. SKIBSTED (Denmark) said that under the Danish Constitution the Faeroe Islands and Greenland were parts of the Danish realm on an equal footing with the rest of the country. While those two parts of Denmark had extensive systems of home rule, citizens of the Faeroe Islands and Greenland did not regard themselves as national minorities. Both home rule governments were consistently consulted on the subject of human rights and the possible ratification of treaties.

47. The CHAIRPERSON, noting that Denmark's level of official development assistance surpassed the target levels set by the international community, commended the State party for its significant contribution to the implementation of the Convention through its international cooperation activities. The Committee considered that such efforts reflected a very serious approach to Denmark's international obligations and were in keeping with the spirit of the Convention.

48. Ms. SARDENBERG, noting the delegation's intention to ensure that the format of future reports would follow the Committee's guidelines more closely, said that such an approach would help provide a more holistic and integrated view of the many questions relating to the rights of the child. Notwithstanding the failure of the local authorities in the Faeroe Islands and Greenland to provide information, it was important for the Committee to understand the situation of children in those regions as well.

49. While the second periodic report had been made available on the Internet, the Convention required the Government to disseminate such information, and simply making the report available might not be enough. Was the public aware of the report's existence? Did the Government plan to hold a press conference after the current session of the Committee? In considering the possible incorporation of human rights treaties into domestic law, the Government should be attentive to the value of the Convention, as it was an instrument with an especially broad scope; human rights began with children's rights. While the efforts to limit the extent of the Denmark's reservation to the Convention were positive, the existence of such a reservation by a State party with so strong a commitment to human rights could send the wrong message.

50. What was the impact of immigration and the ageing of the population on the situation of children? It would be useful to know whether the longitudinal study mentioned by the delegation related in any way to the Convention. Was implementation of the Convention part of the mandate of the Inter-Ministerial Committee on Children? Noting the very broad mandate of the National Council for Children, she asked in what way it carried out its watchdog activities.

51. The Committee would welcome information on how NGOs had taken part in the drafting of the periodic report. To what extent could they be independent and autonomous if they were in charge of providing services on the Government's behalf? She would also like to know how maladjustment of youth was identified in practice.

52. Ms. CHUTIKUL asked what measures the Government was taking to redress the problems of child suicide, violence against children, drug use by children and the bullying of children, all of which were indicators of poor mental health. She would also like to know what measures it was taking to address the matter of racial discrimination, in particular through teaching materials and changes in teacher's attitudes.

53. Mr. AL-SHEDDI said he hoped that, in its third periodic report, Denmark would provide information about the situation of children in Greenland and the Faeroe Islands. The report also revealed some lack of awareness in Danish Society with regard to the matter of child abuse, especially among refugee and minority populations. Clarifications would be welcome. He would also like to know what measures the Government was taking to ensure that children received appropriate care from both parents, as many Danish children were apparently being raised by a single parent of either sex.

54. Ms. TIGERSTEDT-TÄHTELÄ, nothing that budgetary resources for children's rights and human rights derived from taxation at the local level, asked whether the Government transferred funds from the central government to the municipalities, in order to equalize spending on children in the various parts of the country. She would also like to know whether such funds were earmarked for particular uses or allocated as a lump sum, and whether funds were distributed on the basis of particular criteria.

55. Ms. KARP noted that the Government of Denmark, by ratifying the Convention, had undertaken to protect the rights of all children in Denmark; without information on all children it was not in a position to ensure those rights. In future, the Government should include information about the children of Greenland and the Faeroe Islands in its reports.

56. She would like to know whether and to what extent children had access to the office of the Ombudsman, whether they were aware of its existence and whether it had a department specialized in handling the problems of children. How many complaints from children had been submitted to the Ombudsman? Apparently, children's complaints against teachers were handled by parents and school administrators. It would be useful to know whether children's views were sought and considered during that process.

57. She would like to know whether an evaluation procedure had been created for the National Council for Children, with a view to providing information to children about the ways in which their opinions had been incorporated into legislation and to assessing children's feelings about their role in that body.

58. In her view, the Danish appeals system satisfied the terms of article 40, paragraph 2 (b) (v) of the Convention; there was no need for the Government to wait for a profound change in its court system before withdrawing its reservation.

59. Primary responsibility for the implementation of the Convention lay, of course, with the central Government, which had ratified the Convention. Denmark should review the full scope

of implementation of the Convention by the central and local authorities, and then consider in what areas improvements should be made, including the allocation of funds from the central to the local authorities.

60. She understood that Denmark was moving in the direction of viewing children's rights as human rights. It would be helpful, however, to know whether the Government envisaged reviewing its legislation in order to incorporate the new notion of the children as experts and as partners in matters concerning them. Danish legislation regarding the right of a child to be heard was based on a hierarchy of ages; the Convention, by contrast, stressed the idea of the evolving capacities of the child, which did not depend on age. Provisions that would educate judges, social workers and teachers in ways and means of hearing the child's views would perhaps be preferable.

61. Establishing 15 as the age at which children had the right to refuse treatment and 18 as the age at which they could receive treatment without parental consent posed problems. Furthermore, a girl should be able to choose to have an abortion without parental consent. In addition, although young people often preferred to receive treatment and counselling in such areas as drug rehabilitation without their parents' knowledge, serious medical operations should probably not be undertaken without the involvement of parents. The Government should attempt to design a more detailed, nuanced, and flexible approach.

62. Finally, she wondered whether the remarks and observations of the Board for Ethnic Equality had been incorporated into the report.

63. Mr. CITARELLA said he would welcome more information on the status of the Convention in domestic law. Furthermore, the autonomy of Greenland and the Faeroe Islands did not preclude the responsibility of the Danish Government in their regard; if, owing to lack of funds, children from those territories were treated differently from children in other parts of the country, that amounted to discrimination.

64. He would also like to know whether any studies had been undertaken by the Government to assess the high rate of suicide among Danish children.

65. Ms. OUEDRAOGO said she wished first and foremost to commend Denmark for its international cooperation.

66. More information would be welcome on the implementation of the principle of the best interests of the child. She would like to know, in addition, what measures were being taken to protect children from harmful images shown on the Internet. The Government should describe any steps it had taken to redress discrimination against certain children, in particular by providing funds to local authorities to improve social structures.

67. Ms. EL GUINDI said she would like a description of the birth registration system for children of immigrants in Denmark.

68. The CHAIRPERSON said that information concerning birth registration in Greenland and the Faeroe Islands would also be welcome.

69. He would like to know on what grounds asylum was refused to unaccompanied refugee children. He understood that, even when asylum was refused, such children sometimes remained in the country. What implications did that have for their legal status? In addition, he would like to know how and to what extent the Danish Government fulfilled its responsibility to ensure the protection, best interests and safety of children returned to their countries of origin, whether guidelines existed and how such children were transported. That was a serious matter for many European countries.

The meeting rose at 1 p.m.